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**Z-2295**  
**EDWARD & CAROL PURDY**  
**A TO I3**

**STAFF REPORT**  
**June 15, 2006**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioners, represented by attorney Daniel Teder, are requesting rezoning of 3.71 acres for a proposed ready-mix concrete plant (SIC 3273: Establishments primarily engaged in manufacturing Portland cement concrete manufactured and delivered to a purchaser in a plastic and unhardened state.) on property located southeast of the South 18<sup>th</sup> Street, CR 510 S intersection in Wea 21 (NW) 22-4. If the rezoning is successful, petitioners plan to relocate their existing business on Old US 231 South to the rezone site.

**ZONING HISTORY AND AREA ZONING PATTERNS:**

The site in question, 3.71 acres out of petitioners' total 180 acre holdings, is zoned Agricultural. The 10.0 acre request originally filed with this petition includes 3.71 acres zoned Agricultural, and 6.29 zoned Flood Plain. The FP portion of this 10.0 acre tract has been excepted out of this rezone request as required.

Flood Plain zoning associated with Wea Creek exists immediately to the north; other adjacent properties are zoned Agricultural. R1 zoning is in place across CR 510 S to the northwest.

Three special exceptions for gravel mining have been approved for adjacent land on the south side of CR 510 S: BZA-972, BZA-1351, and BZA-1591. Two special exceptions have been filed by petitioners for a temporary batch/concrete plant on the site in question. In 2001, BZA-1591 was withdrawn prior to the public hearing; in April of this year, BZA-1715 was determined by the Administrative Officer to be a use not permitted by special exception per the Use Table of the Unified Zoning Ordinance. That decision is currently under appeal by petitioners (BZA-1720) and will be decided by the ABZA at its meeting on July 26<sup>th</sup> at the earliest. If the decision of the Administrative Officer is overturned by the ABZA, then petitioners' special exception for a temporary batch/concrete plant (BZA-1715) would also be heard at that meeting.

If the APC makes a recommendation on this rezoning petition at its June meeting, and the County Commissioners vote to approve this request at their meeting on July 3<sup>rd</sup>, the appeal and special exception cases would be unnecessary and most likely withdrawn by petitioners before the July 26<sup>th</sup> ABZA meeting.

**AREA LAND USE PATTERNS:**

A heavily wooded area lies to the north of the proposed batch plant location, adjacent to

Wea Creek. South of the woods are several buildings associated with the former Purdue/O'Neal Farm. The fenced and well-maintained O'Neal Cemetery, dating from the 1830's, was excepted out of the legal description for the mining special exception that surrounds this batch plant site. These buildings and the cemetery are situated north of the mining area and east of the rezone site.

There are currently three separate mining operations on the south side of CR 510 S under operation by two different companies. In addition to petitioners' 180 acre site, which has a Board-imposed termination date of May 2022, gravel mining adjacent to the west and south received a special exception under the old zoning ordinance in 1989 (BZA-972). Approved for a twenty year period, this special exception has three years remaining. D. F. Properties owns the land and Vulcan Materials currently runs this operation. A third mining operation was granted a special exception in 1996 and is located farther to the west along the frontage of CR 100 E (BZA-1351). Petitioners operate this gravel extraction pit. The CR 100 E mining site is located just south of the radio towers at the corner of 9<sup>th</sup> and CR 510 S. This request was approved in 1996 for a period of 10 years, so the mining operation at that site should be ending and reclamation of the site will be commencing later this year. All three of these special exceptions limited mining to daylight hours only.

In addition to the nearby mining operations outlined above, the closest single-family dwelling to the petition site sits approximately 1300 feet to the west. A bit farther away to the west/northwest are several large-lot residences on the north side of CR 510 S. Several homes line the south side of Wea School Road, separated from this site by a heavily wooded area on both sides of Wea Creek. North of Wea School Road is the new subdivision, Masons Ridge. Land to the south and east of petitioners' two-phase mining operation is farmed.

#### **TRAFFIC AND TRANSPORTATION:**

CR 510 S is a two-lane paved secondary connecting S. 18<sup>th</sup> Street (CR 150 E) and old US 231, roughly one and ½ miles to the west. The access for petitioners' site joins the driveway for the adjacent Vulcan mining operation at 510 S near the right-angle north bend the road takes when it becomes 18<sup>th</sup> Street. In 2001 when the special exception for this mining operation was heard, staff, as well as the County Highway Department, was concerned that the proposed exit's turning radius would be insufficient for dump trucks leaving the site in question.

Currently, the County Highway Department, with financial contributions from petitioners, is in the middle of a project that will completely overhaul this corner. The project involves removing the existing bridge at the intersection as well as the curve and completely redesigning this corner as a typical 90-degree, 4-way stop intersection. With the heavy trucks using the soon-to-be straightened driveways from the two existing mining operations, and with these drives intersecting with the county roads at a 4-way stop, this intersection will be considerably safer for motorists and school buses in the near future.

The parking standard for a ready-mix concrete plant is one per 1,000 square feet of gross floor area, plus one per 200 square feet of office, sales or similar floor area

(Parking Group 12). Businesses in Industrial zones are required to have paved parking; sufficient area exists on site to meet this requirement.

### **ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

The UZO requires that “non-temporary batch plants” as well as mining operations have a minimum of a 100’ setback plus a 20 foot wide, type C bufferyard. This bufferyard requirement is identical to what is required along the boundary between I3 and Agricultural zoning. Because in this instance, the proposed zoning boundary is not also the boundary separating different properties, no bufferyard and 100’ setback is required within the 3.71 acre rezone site.

At its closest meander, Wea Creek is approximately 800’ from the proposed batch plant. Petitioners’ current business near the Elliot Ditch is roughly 550’ from that body of water. No evidence of pollution or contamination of the ditch has been seen coming from petitioners’ current ready-mix concrete business during the twenty years it has been in operation per an informal conversation with the former county surveyor.

Ready-mix concrete batch plants are required to obtain air quality permits from the Indiana Department of Environmental Management (IDEM) prior to the start of operations. Petitioners have also stated that instead of re-using the existing machinery from the Old US 231 site, they would be “installing a state-of-the-art low profile design for the new concrete batch plant that includes an emissions collection system.” Petitioners have also told staff that a berm would be built surrounding the batch plant, and that there would be no run-off of water away from the site; instead water would flow into the pit on their property.

Petitioners should also be aware that there is a 25’ building setback from the Flood Plain zoning district. Also, any buildings constructed within 100’ of the Flood Plain zone must meet the “flood protection grade”, which basically means the first floor elevation of the building must be 2’ above the elevation of the 100-year flood plain for the property. A second flood plain certification that includes more of petitioners’ surrounding land may be necessary in order to construct the buildings in the location shown on the submitted site plan.

### **STAFF COMMENTS:**

According to data provided to staff by petitioners, on a typical day in May of this year, 15 truck loads of aggregate were hauled to the current batch plant site and 18 truck loads of concrete left the plant to be delivered. If the batch plant is moved to this site, “there would be no truck movement for the hauling of aggregate since the batch plant would be on site”. The number of trucks hauling gravel and sand from the site would be substantially reduced; however the number of trucks delivering concrete from the new site would naturally increase. Also, trucks carrying other materials necessary for the manufacture of concrete (cement, limestone, etc.) would also be entering the site.

Whether or not any part of the proposed ready-mix concrete batch plant would be seen from CR 510 S and the houses to the northwest is questionable. Petitioners are planning on lowering the elevation of the existing property by removing the overburden (about 4 or 5’ in staff’s estimation) to the elevation of the gravel prior to installing the

batch plant. A recently installed 4 or 5' tall berm along the northern border of the 3.71 acre tract along with a heavily wooded area located farther to the north, would further serve to separate and dampen some of the noise generated by the proposed plant from the residences to the north and northwest.

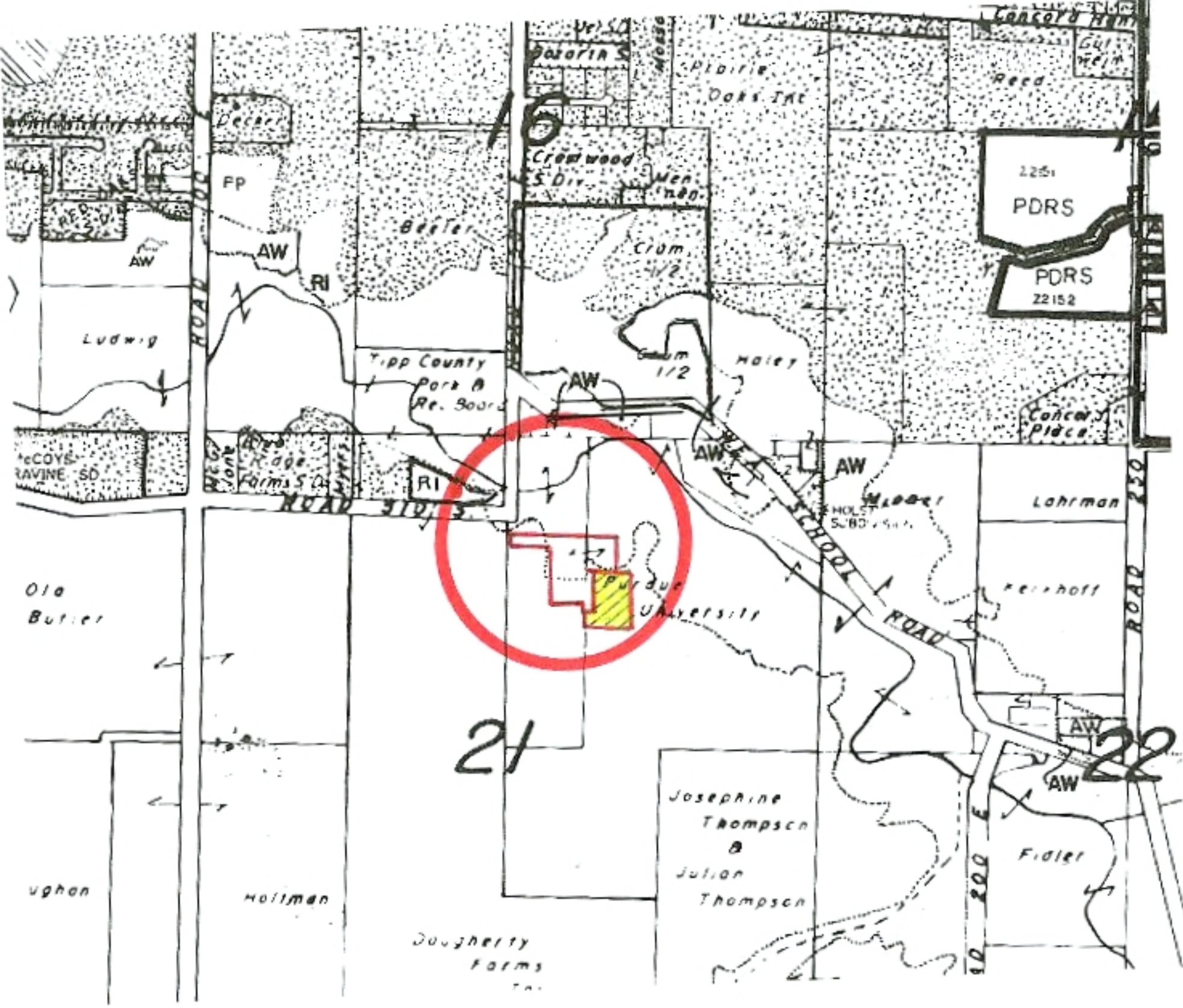
Petitioners' attorney has written that "petitioners will file a modification to special exception BZA-1591 to amend the reclamation plan to include the entire 3.71 acre tract in the reclamation area. With petitioners' modification, the batch plant will terminate upon the end of life of the gravel pit which is approximately seventeen (17) years." Currently, no modification of BZA-1591's reclamation plan has been filed.

Staff applauds petitioners on the location and elevation of the proposed batch plant, for the new berm, and for the proposed modification of the BZA-1591 reclamation plan which would in essence limit the operation of the batch plant to 17 years. If a special exception for a ready-mix concrete batch plant in the Agricultural district were possible, staff would no doubt recommend imposing some conditions on the request (regarding the proposed time limit for the use and their attorney's proposal to revise the reclamation plan to include the batch plant) and would probably give a favorable recommendation. Unfortunately, the UZO does not allow concrete batch plants by special exception in the A district. Indeed, staff is of the opinion that this type of use should be allowed by special exception in the A district in conjunction with a gravel mining operation, because the two uses are dependent upon each other, and produce similar quantities of dust, noise, and truck traffic. (This possible ordinance change will be discussed by staff at the next Administrative Officers' meeting.) Special exceptions for potentially controversial and possibly intrusive uses, which allow staff the ability to impose conditions on that approval, are more preferable to staff than rezoning requests which if approved by the jurisdiction, become permanent.

This case is however, an I3 rezone request, not a special exception. No conditions can be placed on a rezoning, and in 17 years, when the mining operation is completed, these 3.71 acres would continue to be zoned I3; for these reasons only, staff cannot support this request.

**STAFF RECOMMENDATION:**

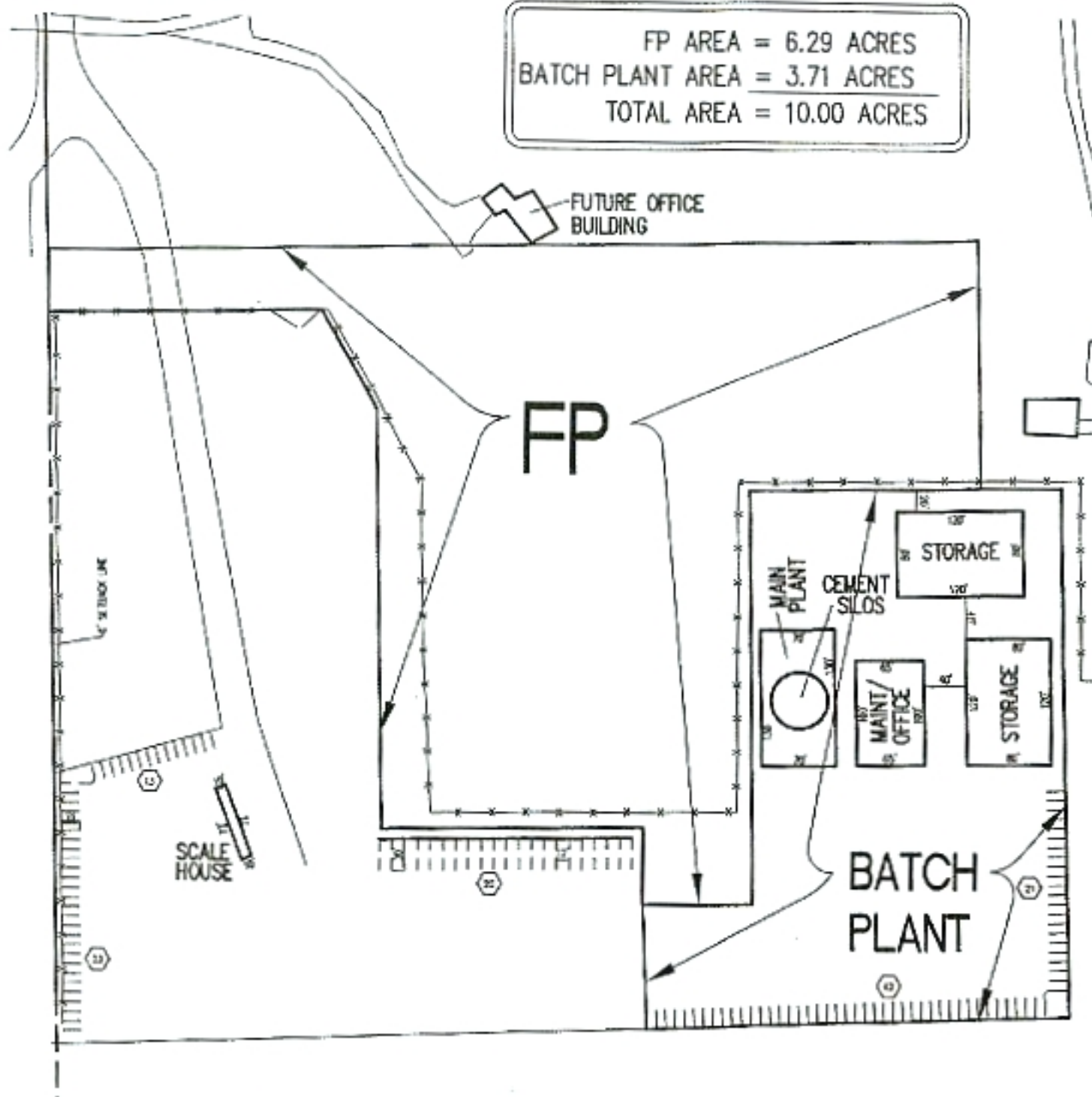
Denial







FP AREA = 6.29 ACRES  
BATCH PLANT AREA = 3.71 ACRES  
TOTAL AREA = 10.00 ACRES



BATCH PLANT DETAIL

NOT TO SCALE

